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Attorneys for Fifth Third Mortgage Company

**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF NEVADA**

In re  
SCHULTE PROPERTIES LLC,  
Debtor.

Case No. 18-12734-mkn

Chapter 11

**SUPPLEMENTAL DECLARATION OF  
FIFTH THIRD BANK IN SUPPORT OF  
MOTION FOR PROTECTIVE ORDER  
OR, IN THE ALTERNATIVE, MOTION  
FOR MODIFICAION OF SUBPOENA  
[DKT NO. 863]**

I, Shannon Seibert declare:

1. I am over the age of 18 and am employed as a/an Litigation Portfolio Analyst by Fifth Third Bank ("Fifth Third") in this proceeding. I have personal knowledge of the matters set forth in this declaration and, if called upon to testify, could and would competently testify thereto.

2. As part of my job responsibilities for Fifth Third, I have personal knowledge of and am familiar with the records maintained by Fifth Third in connection with this matter and the procedures for creating those types of records. I have access to and have reviewed the books, records, and files of Fifth Third that pertain to this matter.

1           3.       The information in this declaration is taken from Fifth Third's business records  
2 regarding this case. The records are: (a) made at or near the time of the occurrence of the matters  
3 recorded by persons with personal knowledge of the information in the business record, or from  
4 information transmitted by persons with personal knowledge; and (b) kept in the course of Fifth  
5 Third's regularly conducted business activities. It is the regular practice of Fifth Third to create  
6 and maintain such records.

7           4.       Pursuant to Fifth Third's Records, on or about April 30, 2001, Borrower executed  
8 a promissory note in the principal sum of \$152,000.00 (the "Note"). The Note is secured by a deed  
9 of trust (the "Deed of Trust") encumbering the property located at 5218 Misty Morning Drive Las  
10 Vegas NV 89118 ("Property"). The Deed of Trust was assigned to Fifth Third.

11           5.       On or about October 11, 2018, Fifth Third filed its Amended Proof of Claim in the  
12 Bankruptcy Case reflecting a secured claim of \$152,080.87, including *pre-petition* arrears of  
13 \$29,082.85 (the "Claim"). (See Claim No. 4-2). The Claim included all loan documents and a pre-  
14 petition payment history to support the validity and amount of the Claim. As a result, the Debtor  
15 is already in possession of all loan documents and a pre-petition payment history for the Subject  
16 Loan.

17           6.       Pursuant to Fifth Third's Records, Debtor served *Requests for Production of*  
18 *Documents* ("Discovery Requests") on Fifth Third.

19           7.       On or about May 29, 2020, Fifth Third responded to the Discovery Requests with  
20 hundreds of pages of documents ("Discovery Responses"). Specifically, Fifth Third provided  
21 Debtor with copies of the loan documents, filed claim, filed pleadings, payment histories, monthly  
22 statements, escrow statements (if any), and communications with the Borrower.

23           8.       On or about May 28, 2021, the Debtor filed a *Notice of Issuance of Subpoena*  
24 *Duces Tecum* ("Subpoena") on Fifth Third requesting the same documents.

25           9.       On June 11, 2021, Fifth Third filed a *Motion for Protective Order or, in the*  
26 *Alternative, Motion for Modification of Subpoena* ("Motion"). (Dkt No. 861). In the Motion, Fifth  
27 Third asserted the Parties already engaged in extensive discovery, including production of  
28 documents, following the hearing on approval of the Disclosure Statement in 2019. Specifically,

Fifth Third responded to Requests for Production of Documents, and provided Debtor with hundreds of pages of documents at great time and expense. The Debtor now seeks production of the same documents.

10. On or about August 18, 2021, Fifth Third provided its counsel with additional documents and updated statements to produce to the Debtor.

11. On or about September 22, 2021, Fifth Third provided its counsel with additional monthly statements from 2018 – 2021 to produce to the Debtor.

12. Below is a summary of the documents provided to counsel to produce to the Debtor:

Servicing Start Date	Discovery Produced
Confirmation (4/2011) – Present	<ul style="list-style-type: none"> <li>- Statements produced 9/22/2021</li> <li>- Statements produced 8/18/2021</li> <li>-Statements, Pay Histories, Escrow Histories produced 5/29/2020</li> <li>-Claim with 410(A) history</li> </ul>

13. With respect to the statements from 2011 – 2014, Fifth Third was unable to locate the statements despite due diligence and a search of the Subject Loan file. The documents are not in Fifth Third's possession at this time. However, if the statements were sent to the Borrower, she should have access to the same. The loan is de-escrowed. As a result, annual escrow statements are unavailable.

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1 14. Fifth Third has incurred attorneys' fees and costs in responding to the discovery  
2 dispute.

3 I declare under penalty of perjury under the law of the United States of America that the  
4 foregoing is true and correct and that this declaration was executed at Batavia (city),  
5 October (state) on 27<sup>th</sup>, 2021.

6  
7  
8  
9 Shannon Seibert  
10 **Name**

11 Litigation Portfolio Analyst  
12 **Title**

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Bankruptcy Case No. 18-12734-mkn  
Chapter 11

**CERTIFICATE OF SERVICE**

I, Lauren Timby declare that:

I am employed by Aldridge Pite, LLP. My business address is: 4375 Jutland Drive, Suite 200; P.O. Box 17933, San Diego, CA 92177-0933. I am over the age of eighteen years and not a party to this cause.

On October 27, 2021, I caused the **Supplemental Declaration of Fifth Third Bank in Support of Motion For Protective Order Or, In The Alternative, Motion For Modification Of Subpoena [Dkt No. 863]** to be served on the parties listed herein via electronic means through the Court's CM/ECF system or by placing a copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail, addressed as follows:

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/s/ Lauren Timby